

Exhibit CC

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

**STEPHANIE CAPSOLAS, HERNAN RICARDO
ALVARADO, JEFFREY CUTAIAR, NICOLE
MEDVITZ, PAUL TORO, DANIEL JANSON,
ROGER CARO, CHRIS ELL, CHRIS FORBES,
JESSE PATRICK, and DIANA DIETRICH, on behalf
of themselves and other similarly situated,**

Plaintiffs,

v.

**PASTA RESOURCES INC., BABBO LLC d/b/a
BABBO RISTORANTE ENOTECA, PANE SARDO
LLC d/b/a OTTO ENOTECA PIZZERIA, EL MONO
LLC d/b/a CASA MONO and BAR JAMON, LA
LOGGIA LLC d/b/a TARRY LODGE, MARIO
BATALI, and JOSEPH BASTIANICH,**

Defendants.

**DECLARATION OF
JEFFREY CUTAIAR**

I, Jeffrey Cutaiar, declare, upon personal knowledge and under penalty of perjury, pursuant to 28 U.S.C. Section 1746, that the following is true and correct:

1. I worked for Otto as a server from approximately February 2005 through approximately mid-2008.
2. During my entire tenure at Otto, I was paid hourly wages of less than the full minimum wage rate.
3. Throughout my employment, nobody at Otto ever informed me about the federal law regarding the tip credit at any time during my employment. Nobody at Otto ever told me that I would be paid less than the minimum wage because I would receive tips or that my tips would be used as a credit against the minimum wage that Otto was required to pay me.
4. During my employment at Otto, I was not allowed to retain all of the tips that I earned.

5. The restaurant kept a portion of the customer tips that I and other tipped food service workers earned.

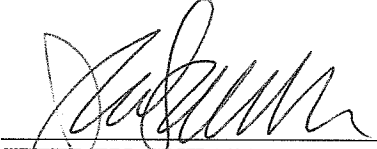
6. Specifically, each night the restaurant calculated approximately 4% of the wine sales for the shift, and deducted the 4% from our tips. With the remainder, we in turn, tipped out 45% to other service employees and retained the rest.

7. I know this because I saw the tip sheet, which clearly recorded a deduction from all service employees' tips equal to 4% of the nightly wine sales. I was also informed by management that this was the restaurant's policy.

8. Managers at Otto told me that the 4% was used for something called the "wine program."

9. General Manager Chris Crocetti once told me that the 4% went back to the house.

Dated: New York, New York
August 31, 2010


JEFFREY CUTAIAR